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"Global and regional approaches to fighting  
transnational crime"

at the International Policing Conference, Adelaide,  
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AUSTRALIAN INSTITUTE OF CRIMINOLOGY



# **Global and Regional Approaches to Fighting Transnational Crime**

**International Policing Conference**

**Adelaide  
6 March 2001**

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## **Keynote Address**

### **Transnational Crime Adam Graycar and Mick Keelty**

#### **Abstract**

The rapid mobility of people, money, information, ideas, and commodities generally, has provided new opportunities for crime, and new challenges for law enforcement agencies. This paper reviews some of the major themes of crime and crime control in today's small world. Major issues canvassed include drug traffic, illegal immigration, illicit traffic in small arms, and cyber crime.

We observe that linkages between events and institutions overseas and at home are inevitable, and will inevitably proliferate. In particular, the diminishing capacity of states in our region and beyond to control crime will pose increasing challenges for Australian law enforcement.

To deal effectively with transnational crime in the context of Australia's immediate environment, activities need to extend beyond the traditional domain of policing to support stability and good governance, on the grounds that transnational crime tends to flourish in weak, or failed, regimes. Peace keeping – an activity in which the AFP is actively involved – is one means through which such support can be provided.

Following an initial overview of transnational crime, the paper describes the regional environment in the Asia-Pacific from the point of view of stability, governance and law and order. It focuses in particular on the region to Australia's immediate north and on the Pacific island countries. It describes the type of transnational crime Australia is experiencing, either emanating from or passing through this region, and seeks to explain how these types of crime flourish within or are facilitated through countries with poor standards of governance or poorly resourced law enforcement regimes.

The paper then proceeds to discuss a number of issues relating to peace keeping from the AFP's perspective. It covers the problems associated with peace keeping in an environment in which many different police cultures are involved and in which police are often relatively poorly resourced to do the job, especially in relation to the military, because of their primary role in law enforcement in their respective home jurisdictions. It details what such problems mean for the AFP with its relatively small numbers of police officers and its Western Liberal outlook on the role of police in society.

The paper concludes by discussing some of the broader implications for the AFP of working in an external environment such as the Asia-Pacific, including organisational, cultural and policy issues.

Last April the Tenth United Nations Congress on the Prevention of Crime was held in Vienna. The main theme was transnational crime, and over 100 Justice Ministers got up, one after the other, to catalogue their countries' threats and traumas, preventive structures and solutions. As we listened to the stories from Argentina, Armenia, Azerbaijan and Austria, they were not very different from those of Panama, Pakistan, Portugal and Poland or those in Latvia, Laos, Lebanon and Luxembourg.

They all catalogued issues such as the movement of people, the movement of drugs and other illegal commodities, the movement of small arms, the laundering of money, the sale and sexual exploitation of children, the epidemic of official corruption, the globalisation of business and the concomitant establishment of apparently legitimate "Front Companies" which provide a cloak for organised criminal activities, the changing nature of environmental and food crime, the violation of intellectual property rights, the burgeoning of financial fraud and on and on.

On the one hand, it sounded like the woes of the world, something happening over there, but seemingly not touching those of us comfortable and secure here in Australia. But no, that is not so. Extreme poverty and political instability in Afghanistan has a significant effect on drug deals that take place in the park outside this hotel, and on burglary of nice houses in nearby suburbs. The political troubles in Fiji last year created opportunities for villains and put pressure on Australian law enforcement (about which the AFP will speak later). The construction union has made allegations about the infiltration of organised crime in the building industry and significant deleterious effects in which illegal immigrants play a part.

All in all, the rapid mobility of people, money, information, ideas and commodities has an impact, not only on the global big picture, but on how we live in Adelaide, Armidale and Albany; on what our kids ingest at parties in Perth, Port Pirie and Parramatta, and certain pressures on shopkeepers, or the transmission of sexual diseases in Ballarat, Bowral and Brisbane.

The Tenth UN Congress which produced the Vienna Declaration for international co-operation, was the penultimate event before the signature of the Global Convention Against Transnational Organised Crime. This Convention serves as a cooperative roadmap for a coordinated effective long-term attack on international crime. Remember that international crime is not something that begins and ends out there - it has an impact on how Australians live.

There are two key issues in the first part of this paper:

1. What types of threats are there for Australia;
2. What can we do about them in the international arena;

This second issue, what can we do in the international arena raises important questions about *capacity* and *willingness*. There is a particularly delicate balance to be found here. Some nations have great capacity to deal in the international arena, but because of political competition and priority for outcomes, have little willingness. Other countries have great willingness, but without the available capacity the willingness means very little. They might as well try flying to the moon!

## What types of threats

Transnational crime as a concept connotes a variety of things. Most tangible are those transnational “smuggling of commodities” crimes, be they drugs, arms, people, gems, wildlife, or other contraband. These are the traditional mainstays of what we commonly think of as transnational criminal activity. Yet recent times have seen increasing expansion of global technology and connectivity. We now must also consider more ethereal transnational crimes, such as electronic transfers of illicit funds (money laundering), pirating or theft of intellectual property, and other forms of high tech crimes and fraud. All of these crimes are about monetary gain. Yet not all transnational crime is profit-motivated, nor are there “commodities or objects” involved in every case. We must not overlook crimes which are politically motivated, such as international terrorism, and others such as digital child pornography and cyber crimes such as the transmission of computer viruses and denial of service attacks.

Just as there are a broad array of activities which may be classed “transnational crime”, so to are there a variety of actors involved in perpetrating such crimes. These include:

- opportunistic local criminals who carry out local activities of transnational networks, such as distributing heroin from the Golden Triangle at street level in Adelaide, Perth or Melbourne;
- operators who provide specialist services to facilitate transnational crime, such as document forgers in Malaysia who create false documents to aid the smuggling of illegal migrants, or vessel captains who sail the ships moving drug shipments coast to coast;
- opportunistic entrepreneurs using new global technologies - one example involves a website in Canada which purported to offer free adult entertainment, available by downloading a special “viewer”. The act of downloading the software, unbeknown to the user, disconnected the user’s modem from their local service provider and re-routed the connection through a provider in Moldova. The connection continued even after the user had left the site, and remained on until the computer was turned off. Only later did their telephone bills indicate that they had incurred massive international phone charges. (*Corporate Crime Reporter*, 24 February 1997, *Internet Australia*, April 1997).
- corrupt officials who facilitate the movement of smuggled commodities into their country;
- political or religious extremist groups seeking to wield international influence via terrorist action;
- family-based syndicates involved in organising specific criminal activities between two countries, such as recruiting women from Thailand into sex work in Australia;
- as well as the large transnational organised crime syndicates that have an international presence in many countries, are well established, well funded, engage in a variety of criminal activities, and may engage the services of all other players above.

So how do such international actors and activities pose threats to Australia? The first danger to Australia emerges when our country is perceived by international criminals

as an attractive destination for smuggled commodities. This poses quite a range of threats:

The threats can be analysed right across the spectrum, but here are some examples that relate to drugs.

- first, through the influx of illicit and possibly dangerous goods to our communities (the prime examples here are drugs, but also arms and counterfeit currency). Use of some drugs is inherently dangerous, yet the fact that the drugs are illicit poses additional threats to health and community safety: their illicit status means both preparation and using practices are unregulated and underground, increasing the risk of associated health problems stemming from unsafe injecting/use practices, or from cutting chemicals with unsafe mixing agents;
- drug use also has implications for many other forms of crime (eg. burglary, robbery, violence) which are in many cases drug-related, therefore increases in the amount of illicit drugs entering the country may cause flow-on increases on other drug-motivated crimes as more people become drug users. The DUMA project at the Australian Institute of Criminology has, for the first time demonstrated the links between illicit drug use and criminal activity across a range of jurisdictions.
- The DUMA project has found that of those detained by police for property offences 86% tested positive to any drug, 43% tested positive to opiates, and 66% to cannabis. In Bankstown, where the drug rates were highest 94% of those detained for property offences tested positive to any drug, while 78% of property offenders tested positive to opiates. Interestingly, 80% of violent offenders had illicit substances in their urine. These results give us a lot to worry about. We do not stack up well in international comparisons. We have comparable data for many cities in several countries, and the only city that has similar results to Bankstown and Parramatta is Liverpool in England. Opiate use among detainees in Australian cities is considerably higher than it is for the 4 highest American cities - Chicago, Philadelphia, Washington and New York City. Higher Australian rates also apply for amphetamines and cannabis, but the one consolation is that our cocaine rates are much lower than those in American cities.
- To move commodities (eg. drugs, people, contraband) into Australia clandestinely requires some form of local criminal presence to receive them, and further distribute the drugs/ employ the illegal migrants/ and so on; alternately, commodities exported illegally from Australia (eg. wildlife, abalone) require local coordination and exporting arrangements to be made by domestic criminals. Either of these scenarios contribute to a threat of increased criminal presence in Australia in order to facilitate transnational crime.
- once a pathway into Australia is established for the smuggling of one commodity, international experience suggests that these routes and networks are ripe for subsequent exploitation for use in other smuggling markets. Once a link is formed between Australia and South East Asia for the smuggling of illegal migrants, this pathway may then be used to smuggle in drugs. These warnings have in fact been recognised by the Justice Minister in the context of links between syndicates smuggling migrants and drugs.
- As domestic criminal markets for illegally imported goods become increasingly established and lucrative, this can lead to competition amongst criminals for control of the market. This in turn leads to turf wars and inter-gang violence, such

as has been seen in Australia amongst rival outlaw motorcycle gangs for control of the amphetamine trade, or rival Asian groups for control over heroin distribution.

- Australia has also been used as a staging ground for criminal activities abroad. Perhaps the most dramatic recent example involved the Aum Sect, which purchased a sheep station in a remote part of Western Australia and used it to test gases for use in their attack on the Tokyo subway system in 1995 (McFarlane and McLennan 1996).

Aside from these “physical” threats from commodity crimes, Australia is also threatened economically. On a large scale, time and resources must be spent dealing with the fallout from international crime :

- eg. money spent on incarcerating/rehabilitating/treating offenders whose drug habit is fed by national drug importations
- eg. money to house illegal immigrants
- Finally, terrorist activity, whether it occurs within nations or cross-nationally, can impact adversely on distant nations. Australians bear the cost of airport security largely attributable to the threat (and at times the reality) of terrorist violence on the other side of the globe. And there is always the possibility that hatreds born overseas will manifest themselves in Australia, as has occurred, albeit on a limited scale, from time to time (Thompson 1996).

On a more specific angle, there are economic costs when “dirty money” is :

- made in Australia - this undermines our tax system as the money is untaxed and moved offshore
- or is laundered through Australia – such as when illicit funds from offshore criminal groups are invested or laundered, eg. through property investments, gambling, or laundered through businesses in Australia.
- Global competition may enhance the risk that Australian business may be offenders as well as victims of crime. Pressures to engage in corrupt practices may be insurmountable. Some of the most promising markets for Australian products exist in places where bribery, in subtle or less than subtle forms, has traditionally been an essential requisite to doing business.

Finally, taking a broader focus, Australia is threatened by increasing threats to regional stability. Transnational criminal groups are firmly established in the Asia-Pacific region, which is used as both a source, transit and destination region for everything from drugs to arms to trafficked human beings. Corruption is a real issue in some regional centres. Many countries have few legal controls designed to tackle organised crime and its related processes (eg. money laundering). This creates greater uncertainty to Australia as a regional partner and geographically-proximate country.

In general, Australia’s economic and strategic interests are best served by world economic growth and political stability. To the extent that an overseas nation’s economy is crippled by crime and corruption, it is that much less of an attractive market for Australian exports. Abroad and at home, crime is bad for business.

One need only look to events in Albania a few years back to see the trans-national ramifications of domestic criminality. A massive fraud resulted in a significant

number of Albanians losing their life savings. This in turn precipitated the collapse of the government, and a substantial exodus of Albanians seeking refuge in neighbouring Italy, with consequent strains on Italian law enforcement, emergency services, and immigration resources.

Of no less significance is the potential for corruption to facilitate some forms of the transnational criminal activity. The weakening of law enforcement or regulatory capabilities in one of Australia's near neighbours can greatly enhance the capacity of criminals to use that jurisdiction as a "safe haven", a staging area for a variety of criminal activities, or as a trans-shipment point for contraband. What appears at first glance to be an internal matter in a nearby nation may ultimately impact on the streets of our Australian cities.

The shrinking world also increases the risk that some forms of criminal activity, when effectively interdicted in one jurisdiction, may be displaced to another. Small states are particularly vulnerable to criminal exploitation. In some cases, displacement to safe criminal havens is facilitated by corruption, or other factors which produce a weakening in the legitimacy or effectiveness of a "host" government.

But displacement is by no means dependent on the collapse or near collapse of the state. In some jurisdictions, mere relaxation of regulatory vigilance will suffice. The BCCI case, involving the collapse of a bank with 400 branches in 78 countries around the world, is illustrative. Those jurisdictions such as Australia, with more stringent prudential regulations in place, were spared the difficulties of presiding over the collapse of yet another financial institution.

## **What can be done to counter the effects of transnational crime?**

There is always a conflict between what might be seen as core policing business and practicing that in your local communities, and taking the very big picture, and moving well outside your comfort zones.

Clearly, any response to transnational crime must have a transnational focus. However, there are national initiatives which can support the fight against transnational crime, make one's own country potentially less susceptible or less attractive to international crime syndicates, and serve to protect the local community. Within Australia, responses have been legislative, administrative and "operational". Legislatively, the response has been to recognise different types of transnational crime, create relevant offences (eg. new slavery and sexual servitude offences added to the Criminal Code in 1999), and/or increase penalties for these offences (eg. increased people smuggling penalties in 2000). Administratively, arrangements both domestically and internationally have been made to facilitate cooperation between relevant agencies, such as through the creation of MOUs. Operationally, the bodies charged with investigation of organised criminal activity generally within Australia are the AFP and the NCA. More specific roles are held by other agencies:



- Customs has the lead role in controlling what goods cross our international border, and as such has a key role in preventing and detecting the entry of contraband
- DIMA is responsible for preventing unlawful entry of persons into Australia and for implementing government immigration policy which aims to deter people smugglers from targeting Australia as a destination country (eg. through its mandatory detention policy, and recent changes to the protection visa system which prevent family sponsorship for refugees who have not sought offshore protection – i.e. who enter Australia illegally)
- AUSTRAC monitors large-scale financial transactions and is the watchdog for detection of suspicious money transfers which may represent proceeds of crime
- DFAT and the Attorney-General's Department (with AFP) have a role in taking legal action against foreign criminals directing transnational activities which impact on Australia, eg. through the extradition process

There is growing recognition that transnational criminal activity in Australia will frequently cut across the jurisdiction of a variety of agencies. The response to this has included formation of a variety multi-agency task forces and strike teams, many of which target specific crime areas (eg. drugs, financial crime, people smuggling) which have enhanced cooperation and information-sharing at a national level. In at least one area there has been a decision that a “whole-of-government” approach is needed to best tackle the issue (this is people smuggling).

Perhaps most challenging in the years ahead will be the identification and prosecution of transnational offenders. The time, money and uncertainty involved in international investigations, and if successful, extradition proceedings, requires law enforcement authorities to exercise careful judgment in deciding whether to pursue such offenders. Moreover, the cooperation across international boundaries in furtherance of such enforcement requires a significant level of understanding between jurisdictions. Authorities in the nation where the offence originated or the offender resides may have their own priorities, which do not always coincide with those of Australian law enforcement agencies.

The basic approach to overcoming these problems lies in developing cooperation between nations. This is more easily said than done, given the significant differences in legal systems, values and priorities around the world.

Enlisting the assistance of overseas authorities is not an automatic process, and often requires pre-existing agreements relating to formal mutual assistance in criminal matters. Following recent amendments to the *Mutual Assistance in Criminal Matters Act 1987*, Australia may now grant assistance in criminal matters to any country. Bilateral mutual assistance treaties are in currently force with 18 nations. A further four treaties have been signed, but are not yet in force. Nevertheless, there are numerous examples of successful measures.

## Unilateral action

Some governments may take unilateral action against their citizens or residents who commit criminal offenses on foreign soil. Two of the most familiar examples in Australia are prosecutions for engaging in sexual activity with children, and for war crimes alleged to have been committed in World War Two. But in many cases, this may still require the co-operation of a foreign government in obtaining evidence and possibly in extraditing the offender.

### **Bilateral agreements**

The mobility of criminal offenders in a shrinking world has increased the need for arrangements to facilitate the apprehension and repatriation of those who seek to evade the law by fleeing to another jurisdiction. The most common mechanism for this is extradition, which is done pursuant to a treaty or other formal arrangement between two nations. Australia had signed bilateral extradition treaties with 32 countries. Twenty nine of these were in force. A further 64 jurisdictions were covered by the London Extradition Scheme, which provides for the rendition of fugitive offenders among members of the Commonwealth of Nations. Australia was the originator of 23 and the recipient of 56 extradition requests pending at 30 June 2000 (Australia 2000, 193-4).

Since 1985, Australia has adopted a “no evidence” approach as the preferred basis for international extraditions. The earlier approach required the production of a *prima facie* brief against the person sought, which effectively required foreign jurisdictions to produce evidence which accorded with Australia’s technical rules of admissibility. This was particularly difficult for civil law countries. The new approach is reflected in most of Australia’s modern extradition treaties and has generally facilitated cooperation between Australia and other jurisdictions.

Some jurisdictions seek to prosecute offences committed abroad by foreign nationals against their own citizens. The United States, for example, can seek extradition of alleged terrorists who have offended against citizens of the United States while abroad. Extradition is by no means an automatic matter, as the recent experience of Australian fugitive Christopher Skase illustrates. Moreover, other impediments exist. Some nations will not extradite their own citizens under any circumstances. Australia, as a matter of policy, will not extradite a fugitive who would face execution in the jurisdiction seeking his or her return. Those jurisdictions which do practice capital punishment may waive the death penalty in order to obtain the extradition of a fugitive.

In addition to extradition, a variety of arrangements may be put in place to facilitate cooperation between nations in the location and collection of evidence in furtherance of criminal investigation. Mutual assistance treaties, as they are called, provide a legal basis for authorities in country “A” to obtain evidence for criminal investigations at the request of authorities from country “B”.

Instruments of this kind cover a range of assistance including

- the identification and location of persons
- the service of documents
- the obtaining of evidence, articles and documents
- the execution of search and seizure requests; and

- assistance in relation to proceeds of crime.

Australia was the originator of 102 mutual assistance requests, and the recipient of 217 requests by other nations, which were pending at 30 June 2000 (Australia, 2000, 196-7). Notwithstanding this, Commissioner Palmer will point out tomorrow that the number of countries in the region who have Mutual Assistance treaties is very small.

The *Mutual Assistance in Criminal Matters Act 1987* was amended in March 1997 to provide for “passive” application of the Act to all foreign countries, rather than requiring the Act to be specifically applied to particular countries by regulation. This enables assistance to be provided and requested much more expeditiously than was previously the case.

In addition, the posting of law enforcement personnel overseas can facilitate the development of informal networks which can help expedite response to the various requests which may arise from time to time. Formal agreements are essential, but there is often no substitute for interpersonal contact. The Australian Federal Police has 29 liaison officers stationed in 13 nations around the world. In addition to serving Australia’s needs, the AFP and Australian consular staff are able to help overseas governmental authorities check on the probity of prospective investors from Australia. AFP liaison officers may also assist their hosts in the training of law enforcement personnel and in the exchange of intelligence.

### **Multilateral Facilitation**

International governmental organizations play a significant role in establishing the foundation for inter-nation cooperation in furtherance of criminal justice. By helping set policy agendas and establishing standard frameworks, they help achieve significant economies, and are especially helpful to those small nations whose resources are severely limited. The London-based Commonwealth Secretariat assists member nations in developing mutual assistance and extradition arrangements. The United Nations Drug Control Program helps coordinate activities relating to the international control of narcotic drugs and psychotropic substances, and transnational organised crime generally.

### **International Treaties and Conventions**

These multilateral institutions deal with specific substantive or procedural issues. Illustrative examples include the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and the UN Convention Against Transnational Organised Crime signed in Palermo last December.

The United Nations also provides standard frameworks such as the Model Treaty on Mutual Assistance in Criminal Matters, adopted by the General Assembly on the recommendation of the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders (<http://www.ifs.univie.ac.at/uncjin/mosaic/unrule18.html>). A UN General Assembly Special Session on Drugs was held in June 1998.

In addition, organizations such as the Council of Europe have arranged multilateral conventions such as the European Convention on Extradition (1982); the European Convention on Mutual Assistance in Criminal Matters (1987); the European

Convention on the Control of the Acquisition and Possession of Firearms by Individuals (1987); and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990).

The Financial Action Task Force (FATF) established in 1989 by what was then known as the G-7 major industrial nations, developed a policy framework to combat money laundering around the world. FATF now embraces 26 members, and includes an Asia Secretariat located at the headquarters of the National Crime Authority in Sydney, specifically to promote effective policies against money laundering in the Asian region.

In December 1997 the Council for the Organisation for Economic Co-operation and Development (OECD) completed a multilateral Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The Convention requires Parties to prohibit acts of bribery of foreign public officials, and is designed to ensure that the international community cooperates in addressing this problem in an effective and coordinated manner. The Australian Government has announced that it will take steps to become a party to this convention.

And finally, the international police organization Interpol provides a network to facilitate the sharing of information and intelligence between participating police agencies around the world.

### **International Non-governmental organizations**

Non governmental institutions may also contribute to activities with beneficial impact for criminal justice. The Council on Security Cooperation in the Asia Pacific (CSCAP) was established in 1993 to provide a structured process for regional confidence building and security cooperation among countries and territories in the Asia Pacific region. Among its goals is to better understand and articulate the security implications for the region posed by transnational crime. Transparency International, the multinational anti-corruption group, has been instrumental in promoting uniform legislation which would proscribe the offering of bribes in international business.

It has become increasingly apparent that law enforcement agencies, singly or in combination, are not omnipotent. Some forms of transnational crime, particularly those involving complex commercial fraud, would appear appropriate for a degree of response by the private sector. Indeed, an entire industry has begun to emerge, in which multinational companies provide loss prevention and security services to private clients. State agencies in many countries would be hard pressed in the current fiscal climate to provide such services.

## **General thoughts**

Australia has sought to take a proactive role in preventing transnational criminals from targeting our country, via action in transit countries aiming at disrupting movement of illicit goods en route. This has included capacity-building of foreign law enforcement agencies, and the posting of Australian officials overseas.

Although it is not yet ratified, Australia has recently signed the UN Convention Against Transnational Organised Crime. If and when this instrument is ratified, Australia will then move to implement relevant provisions via changes to our domestic laws. This will also fulfil a primary obligation under the Vienna Declaration. Another step towards implementing this Declaration has been Australia's active involvement in researching organised crime. The AIC has conducted research into organised crime both at a domestic and international level. Our collaboration on two UN research initiatives, namely the Global Program against trafficking in human beings and the Transnational Organised Crime project, has served to outline Australia's experience with organised crime to the international community, and has allowed Australia to provide research expertise to other developing countries in order to assist their assessment of and response to transnational crime.

The world is becoming an increasingly interdependent place. Those societies who ignore this do so at their peril. By contrast, those who recognize this and who plan for and adapt to a smaller world are likely to benefit most and suffer least. Australia's cosmopolitan society lends itself well to adjusting to life in the global village of the 21st century. Continuing analysis of crime and social issues at home and abroad, and continuing liaison between Australian criminal justice agencies and their overseas counterparts, will help further this adjustment.

## **Local Solutions: Fighting Transnational Crime in Australia's Region**

Transnational crime has now taken root as a global problem intimately tied up with the security of nations. This relationship between transnational crime and security was illustrated by a recently released major statement by the CIA. This was the *Global Trends 2015* document. For the first time this document, which is updated every three years, incorporated what the CIA called "international criminal and terrorist networks" as major drivers of global change.

But the link between transnational crime and security is not simply a manifestation of the threat transnational crime poses to the individual within Western, developed countries. It also derives from the fact that transnational crime has been able to establish its global reach by embedding itself in weak, or failed, states.

This relationship between transnational criminal activity and weak regimes was emphasised UN Secretary-General Koffi Annan in a speech delivered at the recent signing ceremony for the new UN Transnational Crime Convention. I quote:

Arrayed against these constructive forces [of civil society] ... in ever greater numbers and with ever stronger weapons, are the forces of what I call "uncivil society". They are terrorists, criminals, drug dealers, traffickers in people, and others who undo the good works of civil society. They take advantage of open borders, free markets and technological advances that bring so many benefits to the world's people. *They thrive in countries with weak institutions ...* [emphasis added]

[I might add in passing, that the Transnational Crime Convention promises to change significantly not just the ground rules by which countries currently deal with each other on criminal matters, but also the normative values we bring to bear on the problem of working against transnational crime across jurisdictions. Indeed, over time it may prove a significant milestone in creating the type of international jurisdiction that will be needed to deal with a problem that is truly global in its dimension.]

Classic examples of the connection between regime weakness and transnational crime can be found in the three major drug producing countries: Afghanistan, Burma and Colombia. All are attempting to deal with significant insurgency movements and all are major growers, manufacturers and exporters of drugs. In fact, an estimated 80% of heroin trafficked illegally into Australia is sourced from the troubled Golden Triangle region, most of it from Burma. Another important example is the collapse of the former Soviet Union and the chronic problem of Russian Organised Crime that rose out of the turmoil that this event generated.

However, in the spirit of the dictum that forms the title of this conference – *global directions – local solutions* – I want to give most of my attention to the region in Australia's immediate surrounds – our neighbourhood. In doing so, I will also be concerned to say something about what we, the AFP, can do to assist in lessening instability in this region, and thus helping to fight transnational crime.

The Australian Federal Police has observed a trend whereby the Asian and South American based illicit drug syndicates trafficking into Australia stage their shipments through neighbouring countries, especially in the Pacific. In part they do so to disguise the origin of the shipments, but in part also it is because the law enforcement capacity in some of the smaller neighbouring countries is weak – though no fault of their own, I might add.

A recent striking use of this *modus operandi* occurred in Operation LOGRUNNER. LOGRUNNER is the code name for an operation involving the importation of a large quantity of heroin through Fiji. The syndicate allegedly involved in the heroin operation was also allegedly dealing in false credit cards and peoples smuggling. Commissioner Palmer will refer to that operation and its implications in more detail tomorrow. For now, it provides an excellent illustration of the growing propensity of criminal groups to use neighbourhood countries in the way I have just mentioned, keeping in mind that Fiji was at the time undergoing a coup attempt.

In another example involving illicit drugs, an apparent attempt was made last August by a syndicate of Asians to use Papua New Guinea as a conduit for the transfer of a massive 1.2 tonnes of amphetamine precursors through Papua New Guinea to another, unknown, destination. Because of the scale of this operation, the incident provides an unsettling reminder of the way in which our smaller neighbours can be targeted. In this case, it appears the PNG authorities concerned may have been naïve or poorly informed about the shipment. Either way, the incident illustrates just how vulnerable our smaller neighbours are to sophisticated criminal attack and how important it is for us to assist them to obtain the skills and resources to deal with it.

There are other instances in which our Pacific and Asian neighbours have been used by the Asian syndicates as trafficking venues to disguise the origin of drugs. In many of these cases, the criminal groups are assisted by the poor resourcing of law enforcement and immigration agencies, which are consequently unable to identify the presence of criminals or their activities.

We have also seen Pacific islands targeted for purposes of fraud and money laundering. Given the small size and fragility of some of the island economies, such activities can actually undermine their stability.

One such example occurred in 1996, when an Australian fraudster targeted Vanuatu with a \$100 million advance fee fraud. Had the fraud come off, it would have bankrupted the small island nation. It was eventually resolved with the assistance of the AFP. Similarly, there have been a number of damaging and highly destabilising pyramid schemes in the Pacific. Two major ones have recently occurred in PNG. One only has to think of the effect of such schemes in places like Albania – where the government was brought down and widespread chaos ensued – to become fearful of the same thing occurring in Australia's own Pacific back yard.

Equally damaging is the issue of money laundering, which has become an accepted way of earning revenue in the case of some hard-pressed Pacific island economies. Having set themselves up as centres of financial convenience, these islands have found that they have also, as a matter of course, become host to a number of Russian and Asian organised crime figures and activities.

In the case of Asian organised crime, the islands face a significant potential problem. This relates not so much to the long-standing and highly respected Asian trading communities throughout the islands, but rather to some of the recent arrivals. In the case of PNG and the Solomon Islands, some of these people have entered on logging vessels with inadequate documentation and subsequently disappeared into the country. Other island nations have conducted poorly considered schemes of economic migration designed to boost revenue, but with no adequate checks on the histories of the people buying their way in.

People smuggling also provides a graphic illustration of the nexus between instability and transnational crime.

Most of the people now attempting to enter Australia with the assistance of people smugglers are from two troubled countries in the Middle East/Southwest Asian region – Afghanistan and Iraq. Both countries have suffered from decades of war and civil strife, giving rise to significant problems of refugees and displaced people. Many, of course, enter Australia and other recipient countries by means of legitimate programs, but some move here with the assistance of people smugglers.

In doing so, they are often staged through the region through countries in unsettled circumstances. Indonesia is a case in point. The smugglers also exploit the poverty of local traditional fishermen, who are suffering from depletion of fish stocks.

### **The Australian response**

Given this relationship between transnational crime and governance, Australia needs to work at several levels, only one of which direct law enforcement action. Indeed, the complexity of the issues involved requires a whole-of-government approach.

This approach has been followed successfully in the case of Australia's efforts to deal with the problem of people smuggling. We have established a highly successful people smuggling team comprising investigation and intelligence from the AFP, DIMA and Coastwatch. A number of other government agencies are also involved in supporting the work of this team. In support of the whole-of-government approach, the Department of Foreign Affairs and Trade (DFAT) has played a key role in providing its services and liaison capability throughout the region. The whole-of-government approach is, I believe, an excellent model to use in attacking a range of crime types.

Australia also supports a range of governance and aid programs designed to help stabilise troubled regional countries. These include assistance to UNDCP crop substitution programs in Burma and elsewhere, regional AusAID projects against trafficking in women and children, efforts to provide aid support in the poorer, Eastern provinces of Indonesia, including to assist the fisher folk, law and order programs in places like Cambodia and PNG, support for various ombudsmans' offices throughout the region and, on the part of the AFP, the Law Enforcement Cooperation Program (LECP), which assists counterpart law enforcement agencies with training and technical assistance. A particular focus of the LECP has been the Pacific and South East Asia.

I should add, however, that such attempts on the part of Australia to deal with issues of law enforcement and governance in the Asia-Pacific region are fraught with difficulty and complexity.

Australia is a developed nation of Western Liberal outlook in the midst of an Asia-Pacific region consisting of a number of countries with very different approaches to the rule of law, different levels of development, different policing and law enforcement capacities, and certainly a range of security and stability outlooks. Indeed, some people have even gone so far as to refer to an 'arc of instability' to Australia's north and north east.

Some of the complexity inherent in working in our region is certainly evident in one of the major activities the AFP undertakes in support of regional stability – peace keeping.

### **Peace keeping**

Historically, police have been seen as the 'poor cousins' of the military when it comes to the peace keeping. This status arose as a result of the grand peace keeping projects that followed the end of the Cold War, such as in Cambodia and the former Yugoslavia. These enterprises were essentially regarded as ways of resolving military problems, so it was seen as most appropriate for military personnel to be involved.



Increasingly, however, we are realising the important role of peace keeping in situations of civil breakdown short of full-scale war– the preventive role, if you like. In such a role, police have as much to offer as the military, and in some cases more.

Police frequently go into such situations unarmed and can often be used in a less politically threatening way than a military force. They can play a direct role in the practical detail of peacekeeping, often working in small groups at the grass roots. They are trained not so much to deal with situations that have become violent (although that is an element of their training) but rather to prevent violence through negotiation and mediation. And they are less costly than the military.

Given the often opaque legal situations in which police peace keepers are required to operate, they are frequently likely to encounter problems of considerable political sensitivity. Difficulties can also arise because they are usually part of a much larger contingent operating under the auspices of a much larger bureaucracy, with all of the attendant tensions and problems.

For example, in East Timor there are 42 countries providing over 1400 civilian police to UNTAET. The major players are Jordan (223), Portugal (165), The Philippines (104) and Australia (100). Of these 100 Australians, 73 are provided by the AFP and the remainder by State police services. Each of these countries will likely have a different approach to policing, depending on the way policing is conducted in their home service.

Within this structure, Jordan and Portugal provide a ‘sharp edge’ rapid deployment capability fully equipped with riot gear. Their police are perhaps also more philosophically inclined to use the full extent of force that this provides than Australian police would be.

This means that they tend to be seen by some – including the Timorise leadership – as more able to deal effectively with emerging law and order issues and issues of group control, especially in Dili.

I mention this because it provides an excellent illustration of the cultural and political complexity that is inherent in international policing, whether in the context of peace keeping or dealing with transnational crime.

This complexity arises because of the diversity of international views about the role of police in society. In Western democracies, police are empowered by virtue of the fact that they are ‘owned’ by the community to maintain law and order on the community’s behalf. In some other countries, however, the police are perceived as a political arm of the Government, or are actually embedded within the military. In a country like East Timor, it will clearly take some time before the community ‘owns’ its police force.

This diversity of attitudes to policing throughout the Asia-Pacific raises the question: should Australia be asked to adapt its police culture, if you like, to meet the perceived needs of nations that have a history of somewhat more direct use of force by police, or should we stick to our own norms? While the answer in my view is clearly the latter,

we need to be mindful both of the perception that our culture can create in the minds of others – for example that we are weak or uncommitted – and the effect working in other circumstances is likely to have on our own people.

Similar problems are sure to be encountered in terms of our commitment to the Solomon Islands. There we currently have 20 AFP officers deployed on a three month rotation with the International Peace Monitoring Team (IPMT). Other members of the team include civilians and military from Australian and New Zealand.

These people are disbursed throughout the country as part of small, mixed teams. There they encounter highly complex cultural and political circumstances without the benefit of a clearly defined role or special powers. For them it is a totally new experience, outside anything they would likely encounter in policing in Australia.

The short duration overseas peace keeping postings that we are involved with – usually from three to six months – provide an opportunity for considerable number of our people to encounter this work. The experience teaches them to be highly versatile in their approach to other cultures and systems and strengthens their sense of self-reliance. This, in turn, provides excellent background for our growing interface with Asian and Pacific cultures in the context of our crime fighting role. And this leads me, in the final part of my talk, to say a little more about what international policing is likely to mean for the AFP in future.

## **What does international policing imply for the AFP?**

Because Australia is a country of predominantly European ethnicity and distinctly Western Liberal values located within the Asia-Pacific region, the nature of the dynamic established by our experience with international policing is likely to be especially interesting.

Over the last few years, the AFP has put considerable effort into those areas of expertise that will help us work more effectively in the Region. The nature of the change is evident from the fact we have recently added, or are shortly to add, seven liaison officers to our cadre of officers in the Asia-Pacific (not including North America), a rise of almost 30% in total numbers. The number of training activities conducted in Asia and the Pacific, or involving Asians or Pacific islanders coming to Australia, has grown from virtually none to a very healthy rate today. The number of major joint operations with Asian and Pacific law enforcement agencies has risen sharply, as has the number of regional visits by AFP people.

At least to an extent, some of these changes are due to the fact that the AFP has benefited from fresh funding in recent years. However, it is notable that we have chosen to spend a considerable portion of that funding in interacting far more closely with our Asian and Pacific neighbours. We recognise that if we are to address the issue of transnational crime in this region, we will need to do so by engaging far more fully with it than we have in the past.

That such engagement has benefits is patently obvious. Our escalating rate of seizures of illicit drugs is fully recorded in the press and Parliament, and I won't re-canvass the figures here. What is less well known, however, is the role of our liaison work with fellow Asian law enforcement agencies in helping us to increase our seizures, and also the rate of seizures by counterpart law enforcement agencies in Asia.

The same can also be said in relation to people smuggling. Regional cooperation, both at the multilateral and bilateral levels, has been the hallmark of our efforts to prevent the illicit flow of people around the region, and especially into Australia.

As well as benefits, closer engagement with the Region also carries some risks. In working more closely in the Asia-Pacific, the AFP will increasingly encounter other cultural and legal attitudes to policing and the rule of law. We will often be working in environments in which the cultural attitude to the giving of gifts and corruption is very different to our own. We will also be working with systems in which the role of law enforcement is not just about protecting citizens from criminals, but also protecting governments from their citizens.

To work in such an environment successfully we will need to provide our people with excellent training and education relating to Asian and Pacific cultures and languages. We will also need to broaden our recruitment base to include those with Asia and Pacific-related skills, whether derived from education, work or cultural background. And we will need to ensure that we have mature and dedicated people who can understand, and hence manage, the situations they are likely to encounter.

A hierarchical, traditionally structured police service can neither recruit nor retain such people. In that regard, I'm happy to say that the AFP has led the field – at least in Australian policing – in moving from a traditional disciplined service structure to a teams-based, professionally-oriented organisation.

Such a structure is necessary not only in terms of recruitment, but also of dealing flexibly with the need to accommodate the constant comings and goings demanded of our people as they engage in their peace keeping and liaison functions in the Region.

## **Conclusion**

Transnational crime has a truly global reach – a point emphasised by Dr Graycar. It also flourishes in weak or failed regimes – to paraphrase UN Secretary-General Kofi Annan. To deal with transnational crime we must also support governance and stabilisation measures. To do that effectively, we must do it in our near region – a region through which transnational crime must stage to reach us. For Australia, such support involves a very difficult learning process and particular sensitivity if our intervention is to be at all helpful.

The role of an international police service like the AFP in supporting regional security derives from two mutually supporting activities – providing the means to counter

transnational crime and supporting good governance through peace keeping and peace monitoring activities.

In providing that service to the region, Australia is doing no more than strengthening its own security, since regional stability is essential if we are to prevent a spill over of problems like illicit drug trafficking and illegal migration into Australia.

The emergence of such an international role for a police service like the AFP, however, itself raises a number of new issues. To learn to operate in such an environment, we need to acquire a set of skills very different to those usually required by the policeman or policewoman on the beat in suburban Australia. We are also likely to encounter a whole new set of risks by operating in such an environment.